



# JUDGING EQUALITY: A CROSS-JURISDICTIONAL ANALYSIS OF WOMEN'S REPRESENTATION IN HIGHER JUDICIARY

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## 1. INTRODUCTION

There has been a marked underrepresentation of women in positions of power, even if their participation in public life has grown. To be more specific, there is an alarming lack of female representation in the court, especially at the highest levels of leadership.<sup>1</sup> Ensuring that courts fairly represent their constituents, answer their issues, and deliver competent rulings hinges on the participation of women in the judiciary. Just being in a position to preside over a case as a female judge sends a strong message that the justice system is accessible and available to those who seek it. For judiciaries to be seen as more open, welcoming, and reflective of the communities they serve, it is encouraging to see women re-entering traditionally male-dominated fields as judges.<sup>2</sup>

The United Nations General Assembly (UNGA) designated March 10 as the 'International Day of Women Judges (IDWJ)', highlighting efforts to address the long-standing gender gap in the judiciary. A clear indicator of progress is the resolution that the State of Qatar authored and submitted to the General Assembly<sup>3</sup>. The Global Programme for the Implementation of the Doha Declaration and UNODC's Strategy for Gender Equality and the Empowerment of Women both aim to promote a culture of lawfulness worldwide through education and training and to support women's full participation in every professional sphere which also includes addressing gender inequalities. Judgment has traditionally been handed down by men. The number of women serving in judicial roles, especially at the highest levels, is low, notwithstanding some improvement. The IDWJ gives us a chance to think about this fact and fight for systemic improvements that encourage equitable participation. Diverse viewpoints on legal interpretation and decision-making are an asset to the justice delivery system, and this is precisely why a diverse judiciary is necessary. Research shows that courts with a diverse panel of judges are better equipped to provide balanced rulings, inspire public trust, and achieve more fair results.<sup>4</sup>

During the opening remarks, Ban Ki Moon, the former United Nations Secretary General, laid special emphasis on women's empowerment and development at the 2012 International Conference on People's Empowerment and Development in Dhaka, Bangladesh on August 5th. This was in an effort to promote empowerment globally by achieving gender equality. A more general objective of empowerment is to improve people's access to resources so that they may have more fulfilling lives free from fear and oppression. Holistic growth is essential for empowerment.<sup>5</sup>

## 2. INTERNATIONALS ASPECT OF WOMEN JUDGES IN THE WORLD

The global landscape of judicial gender representation reveals stark disparities and incremental progress, particularly in the appointment of women to supreme courts. This section examines the international dimensions of this issue, focusing on three pivotal jurisdictions: The United States of America, the European Union, and Australia. In the U.S., despite historic milestones like Sandra Day O'Connor's appointment in 1981, women remain underrepresented in the federal judiciary, comprising only 33% of active judges as of 2019, with even lower representation in higher courts. The European Union presents a mixed picture, with some member states achieving near parity in lower courts but lagging in supreme judicial roles as the women constitute just 41% of national supreme court judges and 25% of court presidents. Meanwhile, Australia's 2024 judicial gender statistics show women account for 42% of the judiciary overall, yet their presence in superior courts drops to 39%, reflecting persistent barriers to leadership roles. By analyzing these regions, the research paper highlights systemic challenges, cultural norms, and policy interventions shaping women's pathways to the highest judicial offices worldwide.

### 2.1. United States of America

The decisions made by the courts have far-reaching effects on laws and regulations, which in turn influence companies and people. The United States court system has traditionally had a masculine preponderance. Nearly eighty years after the country's court system was established, Arabella Mansfield became the first female lawyer in 1869, shattering boundaries. Gender was a clear barrier to women's access to legal representation prior to her accomplishment.<sup>6</sup> The circuit courts, the highest court in the land, and the lower district courts make up the three tiers of federal court. At now, the Supreme Court is comprised of three women. Out of a total of 112 justices in the US Supreme Court, only four have been women. About 36% of the total number of sitting judges are women, with 60 of them justices serving on one of the thirteen federal courts of appeal.<sup>7</sup> In the United States, women make about 33% of district court judges. Four district courts in the nation have had female judges but do not have any on staff at the moment, while six district courts nationwide have never had a female judge. An even more startling disparity is the absence of women of colour. At least eighty-two women of colour make up the nation's 3,000 federal judges. A woman from a minority group is conspicuously absent from six federal courts of appeal. Judges' decisions are less likely to be based on the different experiences and viewpoints that might otherwise

be possible if there were more women on the court.

The percentage of women serving on courts is much lower than that of males. Gender parity in the court has increased to around 34%.<sup>8</sup> A mere 5% of justices on the Supreme Court have been women in the past.<sup>9</sup> Though they remain outnumbered by males, more women are currently employed by the court system than ever before.<sup>10</sup>

## 2.2. European Union

A significant gender gap exists in the European Union's judicial system, according to research on women's participation in senior political and administrative roles throughout the EU's primary institutions. The General Court and the Court of Justice are the two main courts of the European Union's Court of Justice have never had a female president.<sup>11</sup> Out of 111 judges appointed to the Court of Justice since 1952, 12 (or 11% of the total) were women. Of the 10 member nations represented by the female judges, ten were from the Netherlands, two from Romania, two from Spain, and one each from Estonia, Germany, Ireland, Italy, Latvia, and Sweden. Fidelma O'Kelly Macken, an Irishwoman, became the court's first female appointment in 1999, over half a century after its founding.<sup>12</sup> With six female judges out of twenty-seven total, or 22% of the bench, the Court of Justice now boasts the most diverse gender makeup in its entire existence. The General Court has never had such a high percentage of female judges (18 out of 54 total), reaching a record high of 33% as of October 2022.

The member states of the Council of Europe's judiciary are subject to frequent assessments by the European Commission for the Efficiency of Justice (CEPEJ)<sup>13</sup>. The gender breakdown of the prison population is recorded in these biannual reports. A study titled "European judicial systems: Efficiency and Quality of Justice" found that although the number of female judges remains stable across all jurisdictions, it declines as one moves up the judicial ladder.<sup>14</sup>

## 2.3. Australia

Women could not legally practice law in Australia at the beginning of the twentieth century.

The High Court of Australia was founded in 1903, but for almost 80 years after that, only males were allowed to serve. Mary Gaudron succeeded her male predecessors as the first woman to hold a seat on the court in 1987. Appointments of female judges to the High Court have been more commonplace within the last decade. Though there are 56 justices on the bench, only seven of them are women. By taking the oath of office in 2017, Susan Kiefel became the first female chief justice of the high court.<sup>15</sup>

The 2024 AIJA<sup>16</sup> Judicial Gender Statistics report highlights ongoing gender disparities in Australian courts. Women make up 42% of the judiciary overall (Grand Total), while men hold 58%, showing slow progress toward equality. In Superior Courts, women account for only 39%, compared to men's 61%, indicating that higher judicial roles remain male-dominated. By contrast, Inferior Courts show better (but still unequal) representation, with women at 46% and men at 54%, suggesting

more accessible entry points for women.<sup>17</sup> While improvements exist especially in lower courts systemic barriers persist in senior appointments. Achieving gender parity requires targeted reforms in judicial recruitment and career advancement.

## 2.4. France

Overall, women make up about 30% of the federal bench in the United States and 60% of the *magistrats judiciaires* (ordinary judges) in France, therefore the country's judicial system is twice as female-dominated as the American one.<sup>18</sup> Women make up 60.5% of France's ordinary court judges. The fact that the French court still has a "glass ceiling" or "sticky floor" should not be obscured by this proportion as the Lower-level judicial jobs remain reserved for women in France. Women make up 72.8% of judges on the *Tribunal d'Instance*, 56.9% of judges on the *Tribunal de Grande Instance*, and 76.7% of Juvenile judges. However, they only constitute roughly 35% of the *Court of Cassation*, 25.7% of the *Conseil d'Etat*, and one-third of the *Conseil Constitutionnel*. Only 34.1% of the *hors hiérarchie*, the highest judicial grade, are women, but they account for 75.4% of the lowest grade, according to a 2012 study by the *French Conseil Supérieur de la Magistrature*.<sup>19</sup>

## 3. GENDER AND THE JUDICIARY: AN ANALYSIS OF WOMEN'S REPRESENTATION IN INDIAN JUDICIARY

There is a correlation between the underrepresentation of women on the bench and the acknowledgement of the power held by the imagined judge, according to an interpretation of the gender composition of the judiciary through the intellectual device of the imagined judge. In broad terms, the French imagined judge is a knowledgeable automaton mechanically applying the laws created by the Parliament, while his American counterpart is a decision maker well-equipped to solve social problems.<sup>20</sup>

### 3.1. Historical Evolution and Institutional Progress

There have been symbolic victories for women in India's court throughout history, but overall, their story is one of institutional exclusion. It took 42 years after independence, in 1989, for Justice Fathima Beevi<sup>21</sup> to become the first female Supreme Court judge. This was in stark contrast to the 1937 appointment of Justice Anna Chandy to the Travancore High Court, which was an aberration during the colonial period.<sup>22</sup> Small but noticeable improvements occurred this century, with the percentage of women serving in lower courts increasing to 36.3% in 2023. However, there was a noticeable "leak pipeline" in the upper judiciary, with appointments remaining stagnant at 13.4% in High Courts and 9.3% in the Supreme Court in 2024. The planned Nari Shakti Vandan Act (2023)<sup>23</sup> for legislative quotas and the advocacy for gender-sensitive infrastructure by CJI Chandrachud are landmark contributions, but they have not yet resulted in revolutionary changes in the judiciary. Institutional reluctance to altering leadership standards is shown by the delayed ascension of Justice Nagarathna, who is expected to become India's first female chief justice in 2027, but her tenure would only last 36 days. This chronological progression highlights the conflict between patriarchal gatekeeping in judicial nominations and constitutional equality.

### 3.2. Quantifying the Gender Gap

Nationwide, India has been fighting sexism and homophobia ever since it achieved independence. The Indian court system does not provide an alternative viewpoint. Though the creation of a new India has been “an uphill task progressing at a meandering pace,” the concept of constructing an all-reflective court has recently been on the radar of India’s judges. With an eye toward a varied India, the researcher seeks to explore the internationally compelling case for a more inclusive court. Furthermore, the higher judiciary is in policymaking and the establishment of good governance processes in addition to being the ultimate authority for resolving disputes. In the grand scheme of things, it should, therefore, represent the demographic and geographical variety that the nation portrays.<sup>24</sup> When judges come from a variety of backgrounds, it shows that the justice system is fair and representative, and it also opens the door to new ideas and perspectives by drawing on a wider pool of talent.

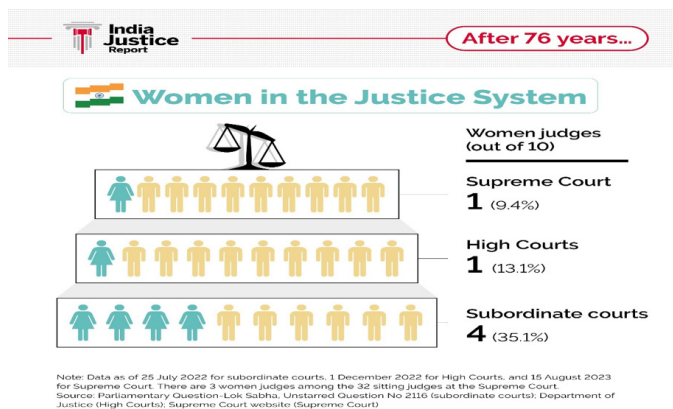


Figure 1: Women in Justice System, India Justice Report 2025.

The percentage of female judges varies across different levels of court systems in India. In district courts, the percentage is 35.1%, while in high courts it is 13.2% and in the Supreme Court it is 12.5%. This disparity is based on the India Justice Report (IJR) 2025<sup>25</sup>, which notes that all-female benches have been formed on the Supreme Court before but not since its inception.



Figure 2: Share of Women Judges in HCs

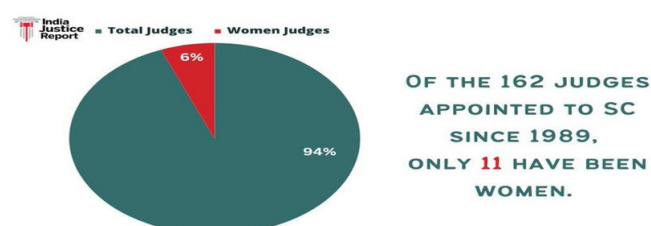


Figure 3: Women Representation in SC

The importance of having women on the bench, for reasons like as diversity, a more equitable system of justice, increased public confidence, positive role models, etc. There are a lot of moving parts to the problem of women’s underrepresentation in the courtroom. While there have been some positive developments, there are still obstacles that limit the number of women in leadership roles. It is imperative that we take action to increase the number of women serving on the bench.

### 4. COMPARATIVE ANALYSIS OF WOMEN’S REPRESENTATION IN THE JUDICIARY

The global landscape of women’s representation in judiciaries reveals significant disparities shaped by legal traditions, appointment mechanisms, and institutional cultures. India’s judiciary demonstrates particularly acute gender imbalances, with women comprising just 13.4% of High Court judges and a mere 11% of Supreme Court justices as of 2024.<sup>26</sup> This underrepresentation becomes even more stark in leadership positions, where no woman has ever served as Chief Justice of India and only 4% of High Court Chief Justices are female.<sup>27</sup> The “leaky pipeline” phenomenon is especially pronounced in India, where women’s representation drops precipitously from 35% in subordinate courts to just over 10% in the highest judicial echelons. This attrition reflects systemic barriers including the opaque collegium appointment system, lack of mentorship opportunities, and deeply entrenched patriarchal norms within the legal profession.

In contrast, the United States shows somewhat better but still uneven progress, with women constituting 34% of federal judges but facing significant variations across states.<sup>28</sup> While three women currently serve on the nine-member U.S. Supreme Court, no woman has yet held the position of Chief Justice. State supreme courts average just 40% female representation, with some states falling far below this benchmark. The U.S. system’s reliance on political appointments and the emphasis on lengthy litigation careers before judicial appointment create particular challenges for women’s advancement.

The European Union, particularly France, presents a more encouraging model of gender parity in judicial appointments. France’s Cour de Cassation boasts 52% female judges, a achievement attributable to its civil law system’s early-career judicial recruitment and mandatory gender quotas. Across the EU, women average 41% representation in supreme courts, though this masks significant variations between member states. The civil law tradition, which recruits judges directly from law schools rather than requiring years in private practice, appears to create more accessible pathways for women.

Australia’s judiciary occupies a middle ground in this comparative analysis. While women constitute 39% of superior court judges and the nation appointed its first female Chief Justice in 2024, progress has been gradual. The Australian model demonstrates how workplace reforms - including improved parental leave policies and childcare facilities in courthouses - can help retain women in the judicial pipeline. However, like other common law jurisdictions, Australia continues to face challenges in achieving true gender parity, particularly in senior



leadership positions.

This comparative analysis reveals several critical insights. First, civil law systems (like France's) consistently outperform common law systems (India, USA, Australia) in gender representation, suggesting that early-career judicial recruitment creates more equitable pathways. Second, mandatory quotas have proven effective in accelerating gender parity, as demonstrated by France's success. These findings suggest that India might benefit from adopting elements of the French model, including early-career judicial appointments and transparent diversity requirements, while also implementing workplace reforms similar to Australia's to address attrition. The persistent underrepresentation of women in judicial leadership across all examined jurisdictions indicates that achieving true gender equality requires not just more women entering the judiciary, but systemic changes to ensure they can ascend to its highest levels.

## 5. THE WAY FORWARD

The path toward gender parity in judiciaries demands comprehensive, systemic reforms informed by global best practices yet tailored to local contexts. For India, meaningful progress requires transforming both institutional structures and professional ecosystems. The collegium system must evolve to incorporate transparent diversity metrics and gender-balanced shortlisting processes, drawing inspiration from the European Union's quota mechanisms while adapting them to India's constitutional framework. Parallel reforms should address pipeline issues through early-career judicial recruitment initiatives and robust mentorship programs to combat the alarming attrition rates between lower and higher judiciary levels. Crucially, these measures require sustained political will and judicial accountability through regular gender audits of appointments and promotions. The comparative data underscores that achieving true equality extends beyond numerical representation – it necessitates dismantling the invisible barriers that perpetuate male dominance in judicial leadership worldwide. As nations like France demonstrate through their civil law systems, structural interventions yield tangible results when implemented consistently. For India, this moment presents an opportunity to leapfrog incremental progress by learning from global experiments while innovating context-specific solutions that address both the visible gaps in representation and the invisible cultural biases within legal institutions. The judiciary's legitimacy in a diverse democracy depends on its capacity to reflect the society it serves, making gender equity not just a matter of justice but of institutional credibility.

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